

REMARKS

Applicants respectfully traverse the rejections of the Office Action mailed January 5, 2010 ("1/05 OA") and request reconsideration. Claims 1, 3, 5, 10, 11, 13, 18-20, 22, 23, 25, 27, 30, 60, 65, 67, 104, 105, 107, 112-115, 126, 129, 133-137, 139, 141, 145, 147, 150, 152 and 189 are amended. Claims 2, 12, 17, 31-58, 62, 63, 68-103, 116-125, 130-132 and 153-188 are canceled. Claims 3-11, 13-16, 30, 59-61, 64-67, 104-115, 126-129, 133-152 and 189 are withdrawn but rejoined pursuant to this response. No new matter has been added.

Allowable Subject Matter

Applicants thank the Examiner for acknowledging the allowability of claims 17-29 if rewritten to overcome the 35 U.S.C. § 112, second paragraph, rejections. See 1/05 OA, page 4, ¶ 6. Remarks and/or corrections have been made in this Response below directed to such 35 U.S.C. § 112, second paragraph, issues and claims 1 and 105 have been amended to include the contents of allowable claim 17, thereby placing all claims in this application in condition for allowance.

Rejections under 35 U.S.C. § 112, Second Paragraph

Claims 1, 17, 20, 22, 23, 25 and 27 stand rejected under 35 U.S.C. § 112, second paragraph, because they are "unclear" or lack "clear antecedent basis." See 1/05 OA, page 2, ¶ 2.

Claim 1 was rejected because "on line 8, it is unclear what is meant by 'sets' of the apparatus if there is one apparatus or more." See 1/05 OA, page 2, ¶ 2, lines 3-10. Applicant is confused by this rejection. Paragraphs [0077] to [0080] clearly explain what is shown in FIGS. 4 and 5. Briefly, the assembly 400 includes an array 402 of natural accelerated weathering test apparatus 420, such array 402 includes a plurality of sets 404 of apparatus 420. As stated in paragraph [0078], in one embodiment, each natural accelerated weathering test apparatus 420

represents a set 404. Accordingly, an array is a collection of two or more apparatus and a set is a collection of one or more apparatus. Applicant submits that this understanding is entirely consistent with mathematics wherein a set is an object in its own right and may include the null or empty set as well. FIG. 4 clearly shows the reference numeral 404 three times indicating three sets 404 of apparatus 420 in the array 402 (reference numeral 402 is used only once) in this embodiment. Therefore, the figures appear to be entirely consistent with the written description.

Claim 1 was further rejected because “on line 6, ‘the test specimen’ lacks clear antecedent basis since each apparatus has a specimen.” See 1/05 OA, page 2, ¶ 2, lines 10-13. Applicant is again confused by this rejection. Initially, Applicant assumes that the rejection refers to line 7 of claim 1 and the following remarks are based on such assumption. Applicant respectfully submits that the language of claim 1 is clear that each apparatus includes a test specimen formed from the material and a temperature control system. Nevertheless, claims 1 and 105 and the applicable dependent claims have been amended to overcome this rejection by the positive recitation of “an associated test specimen” in an attempt to alleviate the Examiner’s confusion. In the event such amendment is not clear, Applicant requests that the Examiner contact the undersigned, as the Applicant has made all efforts to place this application in condition for allowance. Therefore, in view of the foregoing, Applicant respectfully requests that the rejection of claim 1 based on 35 U.S.C. § 112, second paragraph, be withdrawn.

Claim 17 was rejected because, “on line 3, ‘the natural accelerated weathering test apparatus’ and on line 4, ‘the test specimen’ lacks clear antecedent basis... and on line 12, ‘the test specimen’ lacks clear antecedent basis.” See 1/05 OA, page 2, ¶ 2, lines 13-15. In view of the fact that claim 17 has been canceled, Applicant respectfully submits that the rejection of claim 17 based on 35 U.S.C. § 112, second paragraph, is moot and requests that such rejection be withdrawn. Additionally, the contents of claim 17 have been incorporated into claims 1 and 105

to place this application in condition for allowance and such rejections have been addressed and overcome.

Claim 20 was rejected because "on line 3, 'the test specimen' lacks clear antecedent basis." See 1/05 OA, page 2, ¶ 2, lines 16-17. In view of the fact that claim 20 has been amended to address this rejection, Applicant respectfully submits that the rejection of claim 20 based on 35 U.S.C. § 112, second paragraph, is moot and requests that such rejection be withdrawn.

Claim 22 was rejected because "on lines 2-3, 'the test specimen' lacks clear antecedent basis." See 1/05 OA, pages 2-3, ¶ 2, lines 17-1. In view of the fact that claim 22 has been amended, Applicant respectfully submits that the rejection of claim 22 based on 35 U.S.C. § 112, second paragraph, is moot and requests that such rejection be withdrawn.

Claim 23 was rejected because "on lines 2 and 4, 'the test specimen' lacks clear antecedent basis." See 1/05 OA, page 3, ¶ 2, lines 1-2. In view of the fact that claim 23 has been amended, Applicant respectfully submits that the rejection of claim 23 based on 35 U.S.C. § 112, second paragraph, is moot and requests that such rejection be withdrawn.

Claim 25 was rejected because "on lines 2 and 4, 'the test specimen' lacks clear antecedent basis." See 1/05 OA, page 3, ¶ 2, lines 2-3. In view of the fact that claim 25 has been amended, Applicant respectfully submits that the rejection of claim 25 based on 35 U.S.C. § 112, second paragraph, is moot and requests that such rejection be withdrawn.

Claim 27 was rejected because "on lines 3-4, 'the test specimen' lacks clear antecedent basis." See 1/05 OA, page 3, ¶ 2, lines 3-4. In view of the fact that claim 27 has been amended, Applicant respectfully submits that the rejection of claim 27 based on 35 U.S.C. § 112, second paragraph, is moot and requests that such rejection be withdrawn.

Rejections Under 35 U.S.C. § 103(a)

Claim 1 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 4,807,247 to Robbins in view of U.S. Patent No. 5,854,433 to Patel. See 1/05 OA, page 3, ¶ 5. In the interests of prosecutorial economy, Applicant has amended claims 1 and 105 to incorporate the contents of claim 17, which was indicated as allowable by the Examiner. In view of the foregoing, Applicant respectfully submits that independent claims 1 and 105 are now in condition for allowance, and that all claims that depend respectively therefrom are likewise in condition for allowance for at least the same reasons.

Rejoinder

Applicant respectfully submits that claims 1 and 105, as amended, are in condition for allowance. Consequently, Applicant respectfully requests that the restriction requirement mailed on March 16, 2009 (the “3/16 RR”) be reconsidered and withdrawn and that claims 3-11, 13-16, 30, 59-61, 64-67, 104-115, 126-129, 132-152 and 189 be rejoined pursuant to MPEP § 821.04. The 3/16 RR stated that “Claim 1 appears to link all of the claims, and thus, all of the claims may be rejoined in the event that Claim 1 is found to be allowable over prior art.” See 3/16 RR, page 7, ¶ 3, lines 1-3.

Claims 3-11 and 13-16 depend, directly or indirectly, from allowable claim 1 and should be rejoined for at least requiring the same elements and limitations of claim 1. Claims 30, 59-61, 64-67, 104-115, 126-129, 132-152 and 189 require all of the limitations of the allowable claim 1. Accordingly, rejoinder of claims 3-11, 13-16, 30, 59-61, 64-67, 104-115, 126-129, 132-152 and 189 is proper and earnestly solicited.

CONCLUSION


No amendment made was related to the statutory requirements of patentability unless expressly stated herein. Also, no amendment made was for the purpose of narrowing the scope of any claim, unless Applicants have argued herein that such amendment was made to distinguish over a particular reference or combination of references.

The Commissioner is hereby authorized to deduct any additional fees arising as a result of this response, including any fees for Extensions of Time, or any other communication from or to credit any overpayments to Deposit Account No. 22-0259.

It is submitted that the claims clearly define the invention, are supported by the specification and drawings, and are in condition for allowance. Applicant respectfully requests that a timely Notice of Allowance be issued in this case. Should the Examiner have any questions or concerns that may expedite the prosecution of the present application, the Examiner is encouraged to telephone the undersigned.

Respectfully submitted

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